

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
PACIFIC GAS AND ELECTRIC COMPANY)
)
Request to Revoke the Grant of the License of)
Alon Shatzki for Trunked Industrial/Business Pool)
Radio Service Station WPMU363, Milpitas,)
California)
)
And)
)
PERSONAL COMMUNICATIONS INDUSTRY)
ASSOCIATION)
)
Request to Modify the License of Alon Shatzki)
for Trunked Industrial/Business Pool Radio)
Service Station WPMU363, Milpitas,)
California)
)
And)
)
ALON SHATZKI, INC.)
)
Licensee of Trunked Industrial/Business Pool)
Radio Service Station WPMU363, Milpitas,)
California)

MEMORANDUM OPINION AND ORDER ON RECONSIDERATION

Adopted: October 21, 2002

Released: October 23, 2002

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. On January 25, 2002, Alon Shatzki, Inc. (Shatzki) requested reconsideration of the Public Safety and Private Wireless Division's (Division) proposed modification of Shatzki's license by reducing the permitted effective radiated power (ERP).¹ Additionally, Shatzki submitted an Opposition to Proposed License Modification (Opposition).² However, the Division granted a request by the Personal Communications Industry Association (PCIA) to propose modification of the subject license by reducing

¹ Pacific Gas and Electric Company, Petition for Reconsideration (filed Jan. 25, 2002) (Petition).

² Pacific Gas and Electric Company, Opposition to Proposed License Modification (filed Jan. 25, 2002) (Opposition).

the permitted effective radiated power (ERP).³ For the reasons set forth below, we deny the reconsideration request. In addition, we find that modifying Shatzki's station license to reduce the authorized ERP as proposed serves the public interest.

II. BACKGROUND

2. In 1986, the Commission adopted frequency coordination rules and procedures to ensure that the assignment and management of the Private Land Mobile Radio (PLMR) spectrum is performed in an efficient and effective manner.⁴ A fundamental aspect of frequency coordination -- the process by which a private entity certified by the Commission recommends the most appropriate frequencies for PLMR applicants -- is an accurate determination by an FCC-certified coordinator as to whether the proposed operation will cause harmful interference to existing co-channel or adjacent licensees.⁵

3. The Commission permits centralized trunking in the PLMR bands between 150 MHz and 512 MHz.⁶ Trunking is permitted, however, only (1) in those areas where exclusivity is recognized by the Commission, or (2) where an applicant/licensee has obtained the consent of all licensees whose service areas overlap a circle with a radius of 70 miles from the proposed trunked system's base station, or (3) by obtaining concurrence whenever the 19 dBμ (VHF) or 21 dBμ (UHF) interference contour from a proposed trunked station intersects the 37 dBμ service contour (VHF) or 39 dBμ service contour (UHF) of any existing co-channel or adjacent channel station.⁷

4. Through the Personal Communications Industry Association (PCIA), an FCC-certified PLMR frequency coordinator, Shatzki filed an application to operate a trunked Industrial/Business (I/B) station in Milpitas, California. The Division's Licensing and Technical Analysis Branch (Branch) granted this application and authorized Station WPMU363 on January 4, 1999.⁸ Upon PCIA's recommendation,⁹ the subject station was assigned frequency 153.5225 MHz, and the base station was authorized to operate at 185 watts ERP.¹⁰ On September 19, 2000, Pacific Gas and Electric Company (PG&E) -- licensed to operate Stations KME687 and WPPX407 on frequency 153.5150 MHz in Newman, Fairfield and Oakdale, California, respectively¹¹ -- submitted that the frequency coordination for Shatzki's station had been faulty and that Shatzki had not provided adequate protection to PG&E's operations.¹² Accordingly, PG&E requested revocation of Shatzki's license.¹³ Upon inquiry from the

³ Request to Modify License by Reducing ERP filed by the Personal Communications Industry Association (Apr. 2, 2001) (Request to Reduce ERP).

⁴ Frequency Coordination in the Private Land Mobile Radio Services, *Report and Order*, PR Docket No. 83-737, 103 FCC 2d 1093, 1094-95 ¶ 2 (1986).

⁵ See generally American Mobile Telecommunications Association, Inc. and American Trucking Associations, Inc., *Memorandum Opinion and Order*, 16 FCC Rcd 12416, 12422-23 ¶¶ 13-15 (WTB PSPWD 2001).

⁶ Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, *Second Report and Order*, PR Docket No. 92-235, 12 FCC Rcd 14307, 14337-38 ¶¶ 56-59 (1997).

⁷ See 47 C.F.R. § 90.187.

⁸ Application File No. A025195 (filed Aug. 27, 1998).

⁹ See Frequency Coordination Number 981270029.

¹⁰ See License for Station WPMU363.

¹¹ PG&E also is authorized to operate mobile units throughout California on 153.5150 MHz. See License for Station KA7177.

¹² Request to Revoke at 1.

¹³ *Id.*

Branch, PCIA reviewed its records concerning the Station WPMU363 frequency recommendation, determined that there might be licensees not accounted for, and suggested reducing the authorized ERP to 23 watts.¹⁴ In response, Shatzki argued that the Commission was without authority to take any action in regard to the subject license because no objection was made to the initial license application, and the time period for reconsideration of the license grant had expired.¹⁵

5. The Division rejected Shatzki's arguments, concluding that PG&E's revocation request and PCIA's request for license modification were most properly characterized as informal requests for Commission action under Section 1.41 of the Commission's Rules.¹⁶ Accordingly, the Division had the authority, under its own auspices, to initiate a license modification proceeding if warranted by the public interest.¹⁷ The Division went on to find that the coordination of Shatzki's application was defective because written consent was neither sought nor received from PG&E, an affected adjacent channel licensee, as required by Section 90.187 of the Commission's Rules.¹⁸ The Division thus concluded that the proposed operations did not provide the requisite interference protection to PG&E's Stations KME687 and WPPX407.¹⁹ However, the Division deemed revocation of Shatzki's license for Station WPMU363 unnecessary because the operating parameters authorized under the subject license could be modified to eliminate harmful interference to the earlier-licensed PG&E stations.²⁰ Therefore, pursuant to Section 316(a)(1) of the Communications Act of 1934, as amended (the Act),²¹ the Division proposed to modify Shatzki's station license to preserve the existing coverage areas of the affected parties and prevent harmful interference, while not unduly disrupting Shatzki's operations.²²

6. In accordance with Section 1.87(a) of the Commission's Rules,²³ the Division provided Shatzki with notice of the proposed license modification and an opportunity to interpose a "protest."²⁴ On January 25, 2002, Shatzki filed both a Petition requesting reconsideration of the *MO&O*,²⁵ and an Opposition to the proposed license modification.²⁶

¹⁴ Request to Reduce ERP at 1.

¹⁵ Shatzki further asserted that the Commission is without authority to extend or waive the time period within which a reconsideration request can be filed. See Letter from Christopher D. Imlay, Esq., Booth, Freret, Imlay & Tepper, P.C., to Mary Shultz, Chief, Licensing and Technical Analysis Branch, Federal Communications Commission (Apr. 18, 2001) (April 2001 Letter).

¹⁶ 47 C.F.R. § 1.41. Pacific Gas and Electric Company, *Memorandum Opinion and Order*, 17 FCC Rcd 98, 101 ¶ 8 (WTB PSPWD 2002) (*MO&O*) (citing Industrial Telecommunications Association, Inc., and Comserv Consulting Services, *Memorandum Opinion and Order*, 16 FCC Rcd 15424, 15426-27 ¶ 7 (WTB PSPWD 2001)).

¹⁷ *MO&O*, 17 FCC Rcd at 101 ¶ 8 (citing Association of Public Safety Communications Officials International, Inc., Forestry Conservation Communications Association and Chandler Fire Department, *Memorandum Opinion and Order*, 16 FCC Rcd 14926, 14926 ¶ 1, 14929-30 ¶ 9 (WTB PSPWD 2001) (*Chandler*)).

¹⁸ See 47 C.F.R. § 90.187 which governs the licensing of trunked systems operating on frequencies between 150 MHz and 512 MHz.

¹⁹ *MO&O*, 17 FCC Rcd at 101 ¶ 9.

²⁰ *Id.*

²¹ See 47 U.S.C. § 316(a)(1).

²² *MO&O*, 17 FCC Rcd at 101 ¶ 9.

²³ See 47 C.F.R. § 1.87(a).

²⁴ *MO&O*, 17 FCC Rcd at 101 ¶ 10.

²⁵ See *supra* note 1.

²⁶ See *supra* note 2. Shatzki submits that if its reconsideration request is granted, the protest (Opposition) is moot. (continued....)

III. DISCUSSION

7. Petition for Reconsideration. In its reconsideration request, Shatzki reiterates the argument that the Commission is without authority to take any action to modify the subject license.²⁷ Shatzki submits that because PG&E's arguments relate only to whether Shatzki's license should have been granted in the first place, they could have and should have been raised in a reconsideration request.²⁸ Shatzki considers the revocation request -- filed more than one year after the date of license grant -- to be a reconsideration request and, as such, argues that the request should have been dismissed because the Commission is without authority to extend or waive the statutory filing period for reconsideration petitions.²⁹ Shatzki asserts that Section 1.41 of the Rules may only be used when formal procedures are unavailable, so an informal request for agency action cannot be substituted for a reconsideration petition.³⁰

8. Contrary to Shatzki's assertion, Section 1.41 does provide us with jurisdiction to resolve the matter. The fact that a reconsideration request could have been -- but was not -- filed at an earlier juncture does not prevent the Commission from taking informal action either at the request of an interested party or under its own auspices.³¹ We agree with Shatzki that the time period to file a reconsideration request elapsed.³² Thus, formal procedures were no longer available and, as such, it was appropriate for us to take action under Section 1.41.³³ In this connection, we note there is ample precedent for considering untimely filed pleadings as informal objections under Section 1.41 should the public interest so warrant.³⁴

(...continued from previous page)
Petition at 2.

²⁷ *Id.*

²⁸ *Id.* at 4.

²⁹ *Id.* at 3-4, 6. See 47 U.S.C. § 405(a).

³⁰ Petition at 4-5. Nor, according to Shatzki, can the Commission find authority in 47 C.F.R. § 1.113(a) that permits license set-asides within 30 days of a license grant. Shatzki contends that the agency would not have authority to take the instant action because the alleged erroneous action was not an inadvertent, ministerial error. *Id.* at 6-7. In support of this argument, Shatzki cites County of San Mateo, California, *Order on Review and Reconsideration*, 16 FCC Rcd 4291 (2001). This case is inapposite, however, as we have not sought to set aside Shatzki's license grant.

³¹ Union Broadcasting Corporation, *Memorandum Opinion and Order*, 52 FCC 2d 387 ¶ 3 (1975); California Metro Mobile Communications, Inc., *Memorandum Opinion and Order*, 17 FCC Rcd 112, 113-14 ¶ 7 (WTB PSPWD 2002) (*Metro Mobile*); JPJ Electronic Communications, Inc., *Order on Reconsideration*, 16 FCC Rcd 2902, 2903-04, ¶ 5 (WTB PSPWD 2002); Colorado RSA 7B(2) Limited Partnership, *Order*, 13 FCC Rcd 22079, 22081 ¶ 6 (WTB CWD 1998) (*Colorado RSA*); RKO General, Inc., *Decision*, 1 FCC Rcd 1081, 1082 ¶ 6 (1986).

³² Shatzki reiterates this argument, having first submitted its views in the April 2001 Letter. See *supra* note 15.

³³ Union Broadcasting Corporation, *Memorandum Opinion and Order*, 52 FCC 2d 387 ¶ 3 (1975); Pacific Gas & Electric Company and California Metro Mobile Communications, *Memorandum Opinion and Order*, 16 FCC Rcd 15419, 15421 ¶ 8 (WTB PSPWD 2001) (*PG&E-California Mobile*); *Metro Mobile*, 17 FCC Rcd at 113-14 ¶¶ 6-7.

³⁴ Union Broadcasting Corporation, *Memorandum Opinion and Order*, 52 FCC 2d 387 ¶ 3 (1975). In addition to the cases cited in note 33 *supra*, numerous petitions to deny have been dismissed as untimely but considered as informal objections under 47 C.F.R. § 1.41. See, e.g., Spectrum Communications, L.C., *Memorandum Opinion and Order*, 16 FCC Rcd 17679, 17682-83 ¶ 8 (WTB PSPWD 2001), Applications of Mountain Microwave, Inc., *Memorandum Opinion and Order*, 16 FCC Rcd 17633, 17636-37 ¶ 8 (WTB PSPWD 2001), and *Colorado RSA*, 13 FCC Rcd at 22081 ¶ 6.

9. In support of its contention that the Commission has no authority to take informal action in this matter, Shatzki cites Global Cellular Communications, Inc. (*Global*).³⁵ In that proceeding, however, the Commission specifically set a filing deadline for informal objections.³⁶ Having established a formal procedure for the orderly filing of Section 1.41 objections, the Commission dismissed certain objections as untimely.³⁷ That situation is not present here.³⁸ Neither a specific deadline for informal requests has been set nor a filing schedule established. Even had PG&E not filed its Request to Revoke, and PCIA not filed its Request to Reduce ERP, we are authorized under our own auspices to propose modification of Shatzki's license if warranted by the public interest.³⁹ Shatzki argues that the thirty-day time period set forth in Section 405 of the Act precludes any action to modify its license pursuant to section 316 of the Act.⁴⁰ Unlike Section 405, however, Section 316 contains no time limit on when the Commission may modify a license. Moreover, while Section 312 of the Act generally limits the grounds for revocation to action that occurred after the license was granted or could not reasonably have been known before the license was granted,⁴¹ Section 316 states that a license may be modified in order to "... promote the public interest, convenience and necessity, or the provisions of this Act or of any treaty ratified by the United States ..."⁴² Thus, nothing in the Act supports Shatzki's proffered limitations on the timing and the basis of a license modification pursuant to Section 316.

10. Finally, Shatzki submits that the Commission proposed modifying the subject license without providing it an opportunity to comment.⁴³ However, having been notified by PCIA (its frequency coordinator) of PG&E's filing, Shatzki submitted the April 2001 Letter stating its views.⁴⁴ Those views were considered by the Division in reaching its decision to propose the subject license modification.⁴⁵ Further, as required by Section 1.87 of the Commission's Rules, Shatzki was given an opportunity to "protest" the propose change to its license. It is those views that we now consider and, thus, Shatzki will have had a full and fair opportunity to present its arguments.⁴⁶

³⁵ Global Cellular Communications, Inc., *Order*, 8 FCC Rcd 8197 (1993) (*Global*).

³⁶ Public Notice, Commission Announces Lottery to Select Commercial Nationwide 220 MHz Band Private Land Mobile Licensees, DA 93-159, 58 Fed. Reg. 9174 (1993).

³⁷ *Global*, 8 FCC Rcd at 8197 ¶ 3.

³⁸ Shatzki also cites Spartan Radiocasting Co., 2 Rad Reg. 2d 1095, 1096 (P&F 1964) (*Spartan*), to support its contention that we are without authority to take action in this matter. In *Spartan*, it was noted that a formal procedure existed whereby, after an application for hearing was designated, the applicant was permitted to file a petition for reconsideration and request that the Commission grant the subject application without a hearing. Although the Commission stated that this formal procedure precluded reliance on Section 1.41 of the Rules, the Commission considered the subject pleading. Thus, we believe that the *Spartan* decision is inapposite to the circumstances present here. *Id.* at 1096 ¶ 5.

³⁹ See Achenar Broadcasting Company, 15 FCC Rcd 7808, 7816 ¶ 17. See, e.g., *PG&E-California Mobile*, 16 FCC Rcd at 15421 ¶ 8.

⁴⁰ Petition at 7.

⁴¹ See 47 U.S.C. § 312(a), (b).

⁴² See 47 U.S.C. § 316(a)(1).

⁴³ Petition at 2.

⁴⁴ See *supra* note 15.

⁴⁵ *MO&O*, 17 FCC Rcd at 100 ¶ 7.

⁴⁶ See Landlinx Communications, *Second Order on Reconsideration*, 15 FCC Rcd 24932, 24933-34 ¶ 4 (WTB PSPWD 2000) (although under 47 C.F.R. § 1.41 there is no requirement for a formal pleading cycle, it was held that the opponent had a full and fair opportunity to present its objection).

11. Opposition. In the Opposition, Shatzki notes that the application for Station WPMU363 was coordinated by PCIA without objection by PG&E or any other entity until the latter's request for revocation of the subject license.⁴⁷ Shatzki also states that while PG&E has "interference concerns" about the subject station's operations, at no time has there been a claim of actual or probable interference.⁴⁸ Shatzki argues that decreasing the authorized ERP for the station's operations is not in the public interest because it will disrupt service to Shatzki's customers by effectively taking away a vital portion of its coverage area and will preclude it from recouping its investment in good faith reliance on the license grant.⁴⁹ Shatzki further contends that the failure to ask for PG&E's consent is purely a technical violation -- not one that needs a dynamic solution⁵⁰ -- and, thus, the proposed license modification is arbitrary and capricious.⁵¹

12. Contrary to Shatzki's suggestion, PG&E was under no obligation to object to WPMU363's license application. Rather, the burden was on the license applicant to seek and receive PG&E's consent before grant of its application. Furthermore, PG&E was not required to claim actual or probable interference, as suggested by Shatzki. Nor was PG&E obligated to submit technical exhibits to support a concern about interference "potential." Although Shatzki was incorrect in these assertions, it was demonstrated -- by an FCC-certified frequency coordinator (Industrial Telecommunications Association, Inc.) -- that Shatzki's interfering contour (19 dBμ) overlaps PG&E's service contour (37 dBμ).⁵² Section 90.187 of the Commission's Rules imposes no responsibility on PG&E in regard to the assignment of the subject frequency to Shatzki. This Commission regulation only imposes requirements on Shatzki. Furthermore, failure to ask for and receive PG&E's consent is not, as alleged by Shatzki, merely a "technical violation."⁵³ Rather, it is a deficiency in the application process leading up to the grant of the subject license in that Shatzki's proposed operations failed to provide the required interference protection to adjacent licensees.⁵⁴ Section 90.187 of the Commission's Rules establishes the process required for license assignment in a situation such as the one here. Complying with these procedures is not optional. Rather, the rule mandates that applicants obtain written consent from affected adjacent channel licensees.

13. Shatzki asserts that the problem in its frequency assignment arose from frequency coordination procedures that are no longer in effect.⁵⁵ It submits that at the time of the subject frequency recommendation, PCIA used mileage separation as the criterion for making adjacent channel frequency recommendations. Currently, Shatzki states, PLMR frequency coordinators (including PCIA) use contour analysis to make frequency recommendations on the adjacent channels. Therefore, Shatzki submits, it is incorrect to label the subject coordination as "defective."⁵⁶ Whether or not Shatzki's frequency coordination is designated as defective, we continue to believe, and Shatzki does not dispute, that the

⁴⁷ Opposition at 3.

⁴⁸ *Id.* at 3-4.

⁴⁹ *Id.* at 4-5.

⁵⁰ *Id.* at 3. Also, in the Petition, Shatzki argues that PG&E had no cognizable injury, but only a technical coordination error. Petition at 8.

⁵¹ Opposition at 3-4.

⁵² *MO&O*, 17 FCC Rcd at 100 ¶ 5.

⁵³ Opposition at 3.

⁵⁴ Industrial Telecommunications Association, Inc., and Public Service Electric and Gas Company, *Memorandum Opinion and Order*, 16 FCC Rcd 15765, 15769 ¶ 11 (WTB PSPWD 2001).

⁵⁵ Opposition at 4-5.

⁵⁶ *Id.* at 5.

coordination was faulty because it did not comply with the requirements of Section 90.187. Consent was neither sought nor received from PG&E, an affected adjacent channel licensee and thus, Shatzki's use of the subject frequency must be modified to comply with the Commission's rules.

14. Additionally, we differ with Shatzki that no "dynamic" solution is necessary to remedy the defect in its frequency assignment.⁵⁷ Now that we are aware of the faulty frequency coordination, it is incumbent upon us to address this matter. Moreover, the proposed license modification is not, as alleged by Shatzki, arbitrary and capricious.⁵⁸ Reducing the ERP of Shatzki's station operations addresses circumstances resulting from a faulty frequency coordination while permitting the continued operation of the subject station, albeit with reduced power. The 23 watts on frequency 153.5225 MHz is limiting, however, it is the only way Shatzki can operate on the subject frequency and be compliant with the applicable rule. The license modification provides PG&E, an adjacent channel licensee, with protection from harmful interference as would have been the case had Shatzki complied with the "consent requirement" of Section 90.187 of the Rules.⁵⁹

15. Shatzki argues that modification of its license would disrupt service to its VHF dispatch customers by effectively taking away a vital portion of its coverage area.⁶⁰ We reject the argument as unsubstantiated. We believe that an ERP of 23 watts can be comparable to Shatzki's current operational parameters if his base station's antenna is positioned at an appropriate height and elevation. Using 23 watts ERP, the 37 dBμ contour covers Station WPMU363's forty kilometer (km) mobile service area.⁶¹ The mobile units can receive an acceptable signal level throughout the 40-km mobile service area.⁶² Therefore, Shatzki has failed to make a sufficient showing that the modification of its license would actually hamper its current operations. We note that there is merely a bare assertion in Shatzki's Opposition that such modification would disrupt service to its clients.⁶³ Section 316(a)(3) of the Act⁶⁴ makes any protest of a proposed modification subject to Section 309 of the Act.⁶⁵ Section 309 of the Act requires that all allegations must be supported by an affidavit of a person or persons with personal knowledge thereof.⁶⁶ We note that Shatzki provided no affidavit or other evidence that would support its claim that reduction in its station's ERP would disrupt service to its dispatch customers. We also note that Shatzki has additional frequencies on which it is authorized to operate.⁶⁷ Accordingly, we find that the unsupported assertion that the proposed modification would disrupt Shatzki's provision of service is insufficient to raise a substantial and material question of fact concerning the modification of Shatzki's

⁵⁷ *Id.* at 3.

⁵⁸ *Id.* at 3-4.

⁵⁹ *PG&E-California Mobile*, 16 FCC Rcd at 15421-22 ¶ 10.

⁶⁰ Opposition at 5.

⁶¹ See 47 C.F.R. § 90.205(d), which provides for a 37 dBμ signal strength at the edge of the service area.

⁶² Actually, using the 23 watts ERP exceeds the 40 km base service area, but the subject station complies with 47 C.F.R. § 90.205, which provides that the station may operate with 184 watts ERP with the 181 m HAAT.

⁶³ Opposition at 5.

⁶⁴ 47 U.S.C. § 316(a)(3).

⁶⁵ 47 U.S.C. § 309.

⁶⁶ Except for allegations for which official notice may be taken. See 47 U.S.C. § 309(d)(1).

⁶⁷ Station WPMU363 is authorized to operate on frequencies 152.4575, 153.3425, 153.3575, 153.5225, 157.7175, 160.0125, 160.1175, and 160.2075 MHz, in addition to 153.5225 MHz.

license.⁶⁸ Thus, based on the record before us, we find that the public interest, convenience and necessity criteria of Section 316(a)(1) of the Act has been met. As a result, the subject license is modified.

IV. CONCLUSION

16. After carefully considering the arguments put forth by Shatzki in its Petition for Reconsideration and Opposition, we nevertheless conclude that we have the authority to propose license modification and that this proposed license modification will serve the public interest. The coordination of Shatzki's application was defective because written consent was neither sought nor received from PG&E, an affected adjacent channel licensee, as required by Section 90.187 of the Commission's Rules.⁶⁹ Thus, the proposed operations did not provide the requisite interference protection to Stations KME687 and WPPX407 licensed to PG&E. We conclude that modification of the Shatzki license to decrease the power used on the subject frequency is an appropriate mechanism to remedy that failure. Further, we find that Shatzki's Opposition does not provide the requisite support for its claim that the proposed modification will disrupt service to its dispatch customers. Accordingly, we modify Shatzki's license for Station WPMU363 to reduce the authorized ERP for operation on frequency 153.5225 MHz from 185 to 23 watts in order to protect adjacent channel licensees from harmful interference consistent with the Commission's Rules.

IV. ORDERING CLAUSES

17. ACCORDINGLY, IT IS ORDERED, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, that the Petition for Reconsideration filed on January 25, 2002, by Alon Shatzki, Inc., IS DENIED.

18. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 316 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316, and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, that the license for Private Land Mobile Radio Services Station WPMU363, licensed to Alon Shatzki, Inc., IS MODIFIED by reducing the authorized ERP from 185 watts to 23 watts on frequency 153.5225 MHz.

19. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

⁶⁸ Furthermore, we believe that any disruption that might occur to Shatzki's operations would be far less than would occur if the frequency assignment were voided in its entirety. We nonetheless note that in certain cases, the public interest has warranted the modification of a license by deletion of one of the assigned frequencies. *See, e.g., Metro Mobile*, 17 FCC Rcd at 112 ¶ 1.

⁶⁹ *PG&E-California Mobile*, 16 FCC Rcd at 15421-22 ¶ 10.